

6452

R-038-104 .3

**RE: PROPOSAL TO PLACE FILL MATERIAL FOR BANK
PROTECTION IN PADDYS RUN CREEK**

08/27/93

**DOA
3
LETTER**

DOE-FN

6452



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
P.O. BOX 59
LOUISVILLE, KENTUCKY 40201-0059

DOCUMENT FILE NO. 325

August 27, 1993

Operations and Readiness Division
Regulatory Branch (North)
ID No. 199300918-bkc

170 16.29

Mr. Raymond J. Hansen
Acting Manager
Department of Energy
Fernald Environmental Management Project
P.O. Box 398705
Cincinnati, Ohio 45239-8705

Dear Mr. Hansen:

This is in regard to your letter dated July 27, 1993, concerning a proposal to place fill material for bank protection in Faddys Run Creek, Hamilton County, Ohio. We have reviewed the submitted data to determine whether a Department of the Army (DA) permit will be required under the provisions of Section 404 of the Clean Water Act.

In accordance with the "Notification" general condition as outlined in 33 CFR Section 330 Appendix A, Part C (13), the material meets the requirement of Nationwide Permit (NWP) No. 13 for bank stabilization. However, it is your responsibility to contact the Ohio State Historic Preservation Office. We also require compliance with the enclosed General Conditions. This verification is only valid for 2 years from the date of this letter.

If you have any questions, please contact this office at the above address, ATTN: CEORL-OR-FN or call me at (502) 582-5607. Any correspondence on this matter should refer to our ID No. 199300918-bkc.

Sincerely,

Brenda Carter

Brenda Carter
Regulatory Specialist
Regulatory Branch

Enclosure

8432

Section 404 Only Conditions

In addition to the General Conditions, the following conditions apply only to activities that involve the discharge of dredged or fill material and must be followed in order for authorization by the nationwide permits to be valid:

1. *Water supply intakes.* No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.
2. *Shellfish production.* No discharge of dredged or fill material may occur in areas of concentrated shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by nationwide permit 4.
3. *Suitable material.* No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).
4. *Mitigation.* Discharges of dredged or fill material into waters of the United States must be minimized or avoided to the maximum extent practicable at the project site (i.e. on-site), unless the DE has approved a compensation mitigation plan for the specific regulated activity.
5. *Spawning areas.* Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
6. *Obstruction of high flows.* To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).
7. *Adverse impacts from impoundments.* If the discharge creates an impoundment of water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.
8. *Waterfowl breeding areas.* Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
9. *Removal of temporary fills.* Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.